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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/696,751 10/29/2003 John Frederick Porter 11277-0039 7560

8933 7590 02/06/2007

DUANE MORRIS, LLP

IP DEPARTMENT

30 SOUTH 17TH STREET

PHILADELPHIA, PA 19103-4196

EXAMINER

MAKI, STEVEN D

ART UNIT

PAPER NUMBER

1733

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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30 DAYS

02/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/696751

EXAMINER
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ART UNIT	PAPER
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20070203

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

See attached NOTICE OF NON-RESPONSIVE AMENDMENT

### NOTICE OF NON-RESPONSIVE AMENDMENT

The reply filed on 11-15-06 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The reply filed 11-15-06 does not include an election of a single disclosed species (elected invention) to be examined (i.e. election of one of species #1 and #2 and one of species A and species B and one of species X and species Y) and identification of the claims encompassing the elected invention. See 37 CFR 1.111.

FIRST: On page 10 of the reply filed 11-15-06, applicant elects species B. However, the reply filed 11-15-06 does not include an election of one of species #1 and species #2 and an election of one of species X and species Y. With respect to species #1 and #2 and species X and Y, it is acknowledged that applicant traverses the restriction requirement. However, "[a]n argument that ... all claims are generic is considered nonresponsive unless accompanied by an election" (page 3 of the last office action dated 10-31-06, emphasis added)). Applicant's reply to the last office action must include "an election of a species or invention to be examined". As noted on page 4 of the last office action, "... the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) ..." (emphasis added). Applicant's traversal of the restriction requirement will be fully considered when a complete reply to the last office action is filed.

SECOND: For applicant's benefit, examiner notes that "Claims are definitions or descriptions of inventions. Claims themselves are never species. The scope of a claim

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may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a specific species claim).\" (MPEP 806.04(e), emphasis in original). For example, claim 19 appears to be limited to species #1 since it recites \"joining [uniting] encapsulated fibers with a binder [adhesive]\". Support for new claim 19 is found in the original disclosure on page 10, which recites \"... the yarns of the mesh fabric first component 20 may be ... adhesively attached ...\". Another example, new claim 20 appears to be limited to species #2 since applying heat to fuse the wrapped fibers of the open mesh inherently requires \"uniting fibers of open mesh at intersections by fusing using heat\"; it being noted that support for new claim 20 is found in the original disclosure at page 11 last line to page 12 line 5.

THIRD: On page 10 of the reply filed 11-15-06, applicant describes claim 21 as being readable on species B and that claim 21 \"overlaps\" with the subject matter of claim 19. However, the reply filed 11-15-06 does not clearly identify the claims encompassing the elected invention. Please provide a complete list of the claims that read on the elected invention and the claims that do not read on the elected invention to complete the election.

FOURTH: Rejoinder will be considered upon indication of allowable subject matter.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid

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abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Steven D. Maki  
February 3, 2007

  
**STEVEN D. MAKI**  
**PRIMARY EXAMINER**  
2-3-07